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OFFICE OF PETITIONS

In re Application of :
Vicky Kunold :
Application No. 10/617,558 : DECISION GRANTING PETITION
Filed: July 10, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Kunold-3 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 30, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the filing of a request for continued examination (RCE), \$395 filing fee therefor, and submission pursuant to the provisions of 37 CFR 1.114; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay have been received. No terminal disclaimer pursuant to the provisions of 37 CFR 1.137(d) is required as a condition for revival. Accordingly, the reply to the final Office action of November 30, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and

circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This matter is being referred to Technology Center AU 3677 for appropriate action as the nature of the case requires.


Frances Hicks
Petitions Examiner
Office of Petitions